

Estancia News-Herald

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NEWS-HERALD
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Monthly Digest

Of Important Public Land Decisions.

The following important law points have recently been decided by the Secretary of the Interior.

According to published Departmental instructions of August 7, 1911 (40 L. D., 236), the contestant who established his residence and also filed his contest prior to September 24, 1910, and maintained his residence, may receive credit for the time he resided upon the land before the cancellation of entry, which he contested.

The sickness of an entryman may be accepted as sufficient excuse for occasional absences, not unduly prolonged.

Citizenship of the United States is made an absolute prerequisite to the acquirement of title to the lands under the homestead law and satisfactory evidence thereof must be shown.

Purchase of land after final receipt and prior to patent gives an equity only. Such person is not a bona fide purchaser within the meaning of the Pre-Emption law and protected by the provisions of that act against further inquiry by the Land Department as to acts of entryment. Citing Hawly vs. Diller (178 U. S., 476.)

When purchase was made in good faith, and the face of the record appeared regular and valid in all respects, the Department will consider the equitable rights of such purchaser.

When a leave of absence is granted a homesteader, a charge of abandonment will not lie against the entry until the expiration of 6 months after the time for which leave of absence was granted.

A homestead entryman may be allowed to amend his entry and embrace therein adjoining land which he was not allowed to take at the time of making his entry, because of its being then covered by an existing entry, providing notice was given at the time, of its purpose to contest said entry, and the same has actually been done.

The rule for determining the desert character of lands is substantially as follows: Lands that one year with another for a series of years will not without irrigation produce reasonably remunerative crops are desert within the meaning of the law.

A showing that crops, even remunerative ones, have grown on lands for a few seasons under unusual conditions as to rainfall does not conclusively prove their non-desert character. Citing case of Peterson vs. Parkinson. (37 L. D., 522).

In view of the act of June 23, 1910, an entry within a reclamation project may be assigned in whole or in part, "subject to the limitations, charges, terms and conditions of the reclamation act." Public land can be disposed of only according to the

plat of survey, in parcels not smaller than the "smallest legal subdivision," and Section 2289, R. S., requires homestead entries to be made "in conformity to the legal subdivision of the public lands."

Inasmuch as the reclamation act limits the right of entry to one farm unit, an assignee must present a showing that he has not acquired title to and is not claiming any other farm unit or entry under the reclamation act. Citing case of Sarah S. Long (39 L. D., 297).

When commutation proof is rejected by the Commissioner upon only one ground—such as lack of cultivation—the case will not necessarily be closed, but the entry may be held intact, subject to future compliance of law, upon proper showing.

In offering commutation proof, it must be shown that the residence was substantially continuous. If in making such proof, an entryman admits his absence from the land for short periods, the showing thereupon becomes so indefinite that it cannot with certainty be determined that the entryman has lived continuously upon the land for the requisite period of time.

Commutation proof cannot be accepted when it fails to show that the required residence and cultivation continued to the date on which application for notice of intention to make proof was filed. Citing section 3, regulations of October 18, 1907 (36 L. D., 134).

Where entryman sells the land after obtaining final receipt, and before patent, the purchaser takes no better right than the entryman had at the time of the sale.

Fight for Judge Pope

The appointment of William A. Pope for federal judge for New Mexico has been referred to a sub-committee consisting of Senators Root, Cummins and Bacon and a hearing has been set for Thursday when several men from Roswell will appear before the committee to oppose the appointment.

The Public Lands Committee will on Wednesday act on the appointment of John W. March to be Surveyor General of New Mexico. There is no opposition to S. B. Davis for U. S. District Attorney.

Congressman Curry introduced a bill that Federal court instead of being held only at the Capital, Santa Fe, be also held at Albuquerque, Las Vegas, Roswell and Las Cruces. He also introduced bills for the transfer of records appertaining to New Mexico from the Department of Justice, Interior and Treasury to the new state. Congressman Fergusson is preparing an important public lands bill and also a good roads measure.—New Mexican.

Raton reports an epidemic of petty thieving. Recently O. P. Coleman of that place while pursuing a thief slipped on the ice and shot himself in the foot with a Winchester rifle. The thief escaped.

The farmers telephone line which was organized a few months ago is increasing in the number of subscribers very rapidly. At present there are fifteen phones on the line, and they expect to increase this number to twenty-five during the coming month.

District Court Summary

Following is a complete summary of the work of the district court to date, except as to routine matters. Judge Medler will be here Saturday to hold an adjourned session.

State vs. A. E. Gilmore, continued.

State vs. Fredrico Schubert, continued and alias warrant issued for defendant.

State vs. Eduardo y Chavez, plea of not guilty withdrawn and plea of guilty entered. Sentenced to one year in the penitentiary and sentence suspended during good behavior.

State vs. H. L. Bainum, jury trial, verdict of acquittal.

State vs. Henry Dodson and D. B. Dodson, jury trial, verdict of acquittal.

Grand jury reported indictments as follows.

Amado Zamora, burglary.

J. J. White, drawing and uttering worthless check.

R. T. Snodgrass, appellee, vs. El Paso & S. W. Ry, satisfaction of judgment acknowledged and case dismissed costs to appellee.

Ivmasita Sanchez de Maldonado vs. Barito Sanchez y Barcelona, James Chavez appointed examiner to hear evidence and report.

Jose Zamora Chavez vs. Board of County Commissioners, dismissed, costs to plaintiff.

Manuel Gomez vs. Louis Trauer, judgment for plaintiff by default for \$325 and interest and costs.

J. D. Bussell vs. J. M. Whitlow dismissed, costs to plaintiff.

John Becker Co vs. Andres Salas, dismissed.

Dunlavy Mercantile Co. vs J. B. Kelly and Beatriz Maestas de Kelley, judgment by default against J. B. Kelly for \$179.64 damages, \$63.78 interest, and costs. Second cause of action against Defendant Beatriz Maestas de Kelley dismissed, demurrer of defendant to first cause overruled, defendant excepting, and defendant given ten days to answer.

State vs. Manuel Barela, verdict of acquittal by order of court.

Grand jury reported indictments against Emilio Otero. Holbert Frederick, Carlos Brito.

State vs. Carlos Brito, verdict of guilty.

State vs. Martin Vallijas, plea of not guilty withdrawn and plea of guilty entered.

State vs. George W. Ford, jury trial, verdict of guilty. Defendant filed motion for new trial and was released on bail.

Temporary license to practice law granted to Maurice B. Fuller.

State vs. George B. Brown, motion by defendant for continuance overruled. Jury trial, verdict of guilty. Motion for new trial filed, and defendant admitted to bail in the sum of \$1,000.

State vs. Juan Carrillo and Juan Lucero, continued, and defendants admitted to bail.

State vs. J. D. Bussell, jury trial, verdict of acquittal.

State vs. Fred L. Hill, plea of guilty of petty larceny, fined \$20 and costs, payment of fine suspended upon payment of costs and good behavior.

P. A. Speckmann vs. Board of County Commissioners and Allen Barrett, demurrer of defendants sustained and temporary injunction dissolved. Plaintiff given three days to file amended com-

plaint.

Paublino Carrillo, vs. Eastern Ry of New Mexico, continued.

W. L. Johnson vs. S. E. Walton judgment for plaintiff by default for damages in the sum of \$39 and costs and interest August 21, 1911; execution ordered issued against defendant and bondsmen Willard Lumber Co. vs. School Dist. 6, demurrer of plaintiff to defendant's answer overruled, plaintiff excepting. Defendant withdrew answer and was given one day to file demurrer.

State vs. Charles A. Noble, George Dunn, John Dunn, John Griffin, Josiah Perkins and Francis Joiner, motion by defendants for continuance overruled. Defendant Griffin fined \$25 without costs for failing to appear for more than two hours after time set. Jury trial, verdict of guilty; motion for new trial filed, and defendants admitted to bail in the sum of \$2,500 each, pending hearing of motion.

Becker McTavish Merc. Co. vs. Burr V. Goodin, judgment for plaintiff by default, for \$535.80, and interest and costs; order of sale issued against attached property.

Manuel Gomez vs. Louis Trauer, motion to set aside judgment filed; stay of execution granted till Feb. 3, when motion will be argued.

Sam R. Edwards vs. Pedro Schubert and National Surety Co., motion to require plaintiff to make complaint more definite and certain sustained.

R. C. Dillon vs. J. L. Hill, plaintiff given leave to file amended reply.

R. C. Dillon, Trustee, vs. P. G. Hill, plaintiff given leave to file amended reply.

Burnham-Hanna Munger Dry Goods Co. vs. Geo. W. Hill et al, writ of replevin quashed, plaintiff excepting. Plaintiff filed motion for appeal to supreme court, which was granted. Supersedeas bond ordered.

Sam R. Edwards vs. Pedro Schubert and National Surety Co. defendant granted leave to file demurrer to amended complaint, same to be submitted on briefs within 30 days.

Transcript from Santa Fe dated Jan. 12, 1912, signed by E. C. Abbott, Dist. Attorney and John R. McFie, Judge.

Raymundo Romero, treasurer, and Board of Co. Commissioners made defendants and being before court by appearance and consent of E. C. Abbott, Dist Attorney: Decreed that defendants be restrained from collecting from E. P. Davies a greater sum than \$50 for taxes for years 1908, 1910, and 1911, including taxes on lot 19 blk 7 Willard; and that upon payment of \$50 defendants issue complete discharge; said sum to be paid in 30 days.

State vs. Emilio Otero, plea of guilty entered and defendant remanded.

State vs. Guillermo Luna, plea of guilty.

State vs. J. J. White, continued.

State vs. Carlos Romero, jury trial, verdict of guilty, jury asking clemency of court for defendant. Defendant filed motion for new trial.

Carlos Romero sentenced to three years in the penitentiary and to pay costs, sentence suspended during good behavior.

Emilio Otero fine \$10 and costs, committed until paid.

Tanous Tabit vs. J. R. Cobb & Co., demurrer to complaint and taken under advisement pending submission of brief.

Francisca Bachicha de Luna vs. Guillermo Luna, set for Feb. 3rd.

Milton Dow, Adm. of Atkinson & Sons vs. J. A. Simpson, counsel granted leave to submit briefs.

State vs. Juan Sanches, Nepomuceno Lueras and Ev aristo Lueras. Jury trial, verdict of acquittal.

State vs. Candilaro Sais, continued.

Julian Baca vs. Luke Hunter, dismissed by stipulation.

State vs. Carlos Romero et al, dismissed.

State vs. Francisco Sanchez, continued.

Bond of George W. Hill declared forfeited.

Adjourned until Feb. 3 at 10 o'clock a. m.

Local Brevities

Six governors are out for Teddy for president—Stubbs of Kansas, Aldrich of Nebraska, Bass of New Hampshire, Hadley of Missouri, Glasscock of West Virginia, Osborn of Michigan.

John Berkshire went to Moriarty today to look over some cattle which he intends to buy.

Mr. and Mrs. John Preston expect to leave in a few days for Deming, where they will locate.

G. H. Van Stone who is one of the new state corporation commissioners, left on the noon train for Santa Fe.

Several cases of fresh eggs were shipped from here today.

W. R. (Havana) Wright a well known cigar salesman of Denver, Colo., called on local trade today.

Mr. and Mrs. Clem Hanlon who left here a few weeks ago are now located in Deming, at which point they have bought a theatre.

R. V. Winchester, a drummer from Albuquerque was in town today booking orders.

Earl Scott shipped a car of lumber to Ft. Worth Texas today.

R. C. Howell, the main street merchant went to Albuquerque yesterday on a business trip.

Arthur Adair who has been here the past few weeks looking after his homestead, left on today's train for Albuquerque at which point he has a position with the Santa Fe road.

Raymond Epler received a shipment of telephones today. They are to be used on the farmer's line.

For Sale.—One range cook stove No. 8 6-hole with warming closet & reservoir almost new will sell at a bargain.

See Howell Mercantile Co. 1-30-4-t-d-1-t-w.

FOR RENT—My place six miles southwest of Estancia. Very cheap rent to right party. For particulars address A. H. Shelley, Barry, Ill. 1-29m2

Dr. and Mrs. W. E. Sunderland went to Santa Fe on today's train to look after some business matters. They expect to return home tomorrow.